

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY 6 D.C.
05 APR 27 PM 12:37

ROBERT R. DI TROLIO
CLERK OF U.S. DIST. CT
W.D. OF TN.-JACKSON

UNITED STATES OF AMERICA,)

Plaintiff,)

VS.)

No. 04-10091-T-An

JUSTIN MCCOMIC,)

Defendant.)

ORDER DENYING MOTION TO BE PERMITTED TO APPEAL AS PAUPER
AND DENYING MOTION FOR APPOINTMENT OF COUNSEL

Defendant has moved the court to allow him to proceed on appeal *in forma pauperis*.

Rule 24 of the Federal Rules of Appellate Procedure. Rule 24 provides as follows:

(a) Leave to Proceed in Forma Pauperis.

(1) Motion in the District Court. Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms, the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

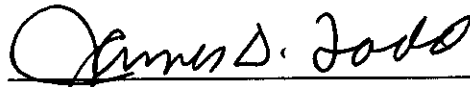
(C) states the issues that the party intends to present on appeal.

(2) Action on the Motion. If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs. If the district court denies the motion, it must state its reasons in writing.


Defendant has failed to attach to his motion an affidavit stating an entitlement to redress or the issues to be presented on appeal as required by Rule 24(a)(1)(B) and (C). Because Defendant has not complied with the requirements of Rule 24, the motion to proceed on appeal *in forma pauperis* is DENIED without prejudice to re-filing with a properly completed affidavit.

Finally, the motion to proceed *in forma pauperis* and the motion for the appointment of counsel are DENIED because Defendant is already represented by counsel. David Camp was retained to represent Defendant in this court. Sixth Circuit Rule 101 provides that “[t]rial counsel in criminal cases, whether retained or appointed by the district court, is responsible for the continued representation of the client on appeal until specifically relieved by this Court.” Mr. Camp has not been relieved as counsel; therefore, Defendant cannot file motions on his own behalf. See Green v. Dorrell, 969 F.2d 915 (10th Cir. 1992) (Represented party must have current counsel file motion to withdraw counsel.)

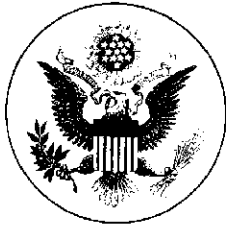
IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 35 in case 1:04-CR-10091 was distributed by fax, mail, or direct printing on April 29, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT